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Before the
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FEDERAL COMMUNICATIONS COMMISSION
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In the Matter of)
Equal Access and Interconnection)
Obligations Pertaining to)
Commercial Mobile Radio Services)

CC Docket No. 94-54
RM-8012

Comments of SNET Mobility, Inc.

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September 12, 1994

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SUMMARY

The imposition of mandatory equal access for CMRS providers is not in the public interest since it would increase the cost of toll for customers who have toll free service areas today, impose significant administrative and cost burdens on the industry and reduce rather than increase customer choice. The Commission's tentative conclusion to impose equal access only on cellular providers fails to fully recognize competition from new entrants and the scope of competition for cellular in the overall telecommunications market. SNET Mobility suggests that the goals of equal access and CMRS interconnection can be achieved by a policy that encourages, rather than mandates, CMRS providers to serve their customers.

The Commission's current policy that requires good faith contractual negotiations by LECs when interconnecting with CMRS providers should not be modified. Given the general level of satisfaction that exists for cellular interconnection today, the Commission should not impose new minimum requirements for negotiated interconnection arrangements with CMRS providers.

Mandatory interconnection among CMRS providers is not in the public interest. The Commission can best foster interconnection by avoiding burdensome regulations and allowing the marketplace to define the need and timing for interconnection.

The Commission should remain mindful of Congress' mandate to promote regulatory parity and should impose resale obligations on other CMRS providers to the same extent that such obligations are imposed on cellular providers.

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SNET Mobility, Inc. (SNET Mobility), a wholly owned affiliate of The Southern New England Telecommunications Corporation (SNET), pursuant to the Notice of Proposed Rulemaking and Notice of Inquiry (Notice)¹ of the Federal Communications Commission (Commission), hereby files its comments regarding the imposition of equal access and interconnection obligations to Commercial Mobile Radio Services (CMRS).

I. INTRODUCTION AND SUMMARY

In the CMRS Second Report,² and again in the Notice, the Commission recognized that an even-handed regulatory scheme under Section 332 would promote competition by refocusing competitors' efforts away from strategies in the regulatory arena and

¹ In the Matter of Equal Access and Interconnection Obligations Pertaining to Commercial Mobile Radio Services, CC Docket No. 94-54, Notice of Proposed Rulemaking and Notice of Inquiry, FCC 94-145, released July 1, 1994 (Notice).

² Implementation of Sections 3(n) and 332 of the Communications Act, Regulatory Treatment of Mobile Services, Second Report and Order, Gen. Docket No. 93-252, 9 FCC Rod 1411 (1994) (CMRS Second Report).

toward technological innovation, service quality, competitive pricing, and responsiveness to customer needs.³ For the reasons noted below, SNET Mobility recommends that the Commission avoid the mandatory imposition of equal access on cellular and other CMRS providers by allowing them to implement equal access in response to market and customer demand. SNET Mobility urges the Commission to conclude that the imposition of mandatory equal access for CMRS providers is not in the public interest in that it would increase the number of cellular calls subject to toll charges, reduce existing toll discounts, impose significant administrative and cost burdens on the industry and reduce, rather than increase, customer choice. While the Commission tentatively concludes that equal access should be imposed only on cellular providers, its conclusion does not fully recognize the new entrants to the marketplace, the level of competition for cellular in the overall telecommunications market, the administrative and cost burdens to implement equal access and the resulting adverse impacts on the consumer.

With regard to LEC interconnection arrangements, SNET Mobility believes that the Commission's present policy whereby LECs are required to provide interconnection to CMRS providers pursuant to good faith contractual negotiations is most appropriate. SNET Mobility believes that the Commission need not impose minimum requirements for negotiated interconnection arrangements because sufficient market incentives exist for LECs to encourage CMRS providers to utilize LECs' transport, switching and intelligent data base infrastructure.

SNET Mobility believes that mandatory interconnection among CMRS providers is not in the public interest and that the Commission can best foster interconnection by avoiding unnecessarily burdensome regulations, allowing the marketplace to define the

³ CMRS Second Report, para. 19.

~~need for~~ interconnection and encouraging the rapid development and adoption of industry standards.

Finally, in assessing whether to impose a resale obligation on CMRS providers, the Commission should be mindful of Congress' mandate to promote regulatory parity. SNET Mobility encourages the Commission to adopt a policy that imposes resale obligations on CMRS providers to the same extent that such obligations are imposed on cellular licensees.

While the articulated goals of equal access and CMRS interconnection are meaningful and worthwhile, SNET Mobility suggests that they can be better achieved by a policy that encourages, rather than mandates, CMRS providers to serve their customers. Such a policy will foster the robust competition, the development of advanced technologies, the expansion of consumer demand for information superhighway services and features, and the increased consumer choice that the Commission seeks.

II. BACKGROUND

In this proceeding, the Commission proposes an equal access obligation for cellular licensees and mandatory CMRS interconnection requirements for local exchange carriers (LECs). The Commission's Notice of Inquiry (NOI), questions whether interconnection requirements should be imposed on CMRS providers and whether a resale obligation similar to that required for cellular licensees should apply to all CMRS providers.

On August 10, 1993, Congress amended Section 332 of the Communications Act of 1934 in order to replace the "traditional regulation of mobile services with an approach that brings all mobile service providers under a comprehensive, consistent regulatory framework and gives the Commission flexibility to establish appropriate levels of regulation for mobile radio services providers."⁴ Congress had two principal objectives in amending Section 332: (1) to insure that similar services would be subject to consistent regulatory classification; and (2) to impose a reasonable level of regulation for CMRS providers, and to avoid unwarranted regulatory burdens for any mobile radio licensees classified as CMRS providers.⁵

The Commission notes that the imposition of equal access on cellular licensees is in the public interest since it would increase competition in the interexchange and mobile services marketplace and foster regulatory parity between wireline and wireless services.⁶ SNET Mobility disagrees. As detailed in the discussion that follows, the mandatory imposition of equal access has the potential to increase toll costs to consumers, reduce customer choice and reduce vigorous IXC competition for carriage of cellular bulk toll traffic. Regulators should encourage mobile providers to respond to these challenges, rather than hobble them with burdensome regulations.

⁴ CMRS Second Report, para. 12.

⁵ Notice, para. 2.

⁶ Notice, para. 3.

III. IMPOSITION OF EQUAL ACCESS ON CMRS PROVIDERS IS NOT IN THE PUBLIC INTEREST

A. Equal Access Should Not Be Mandated for CMRS Providers.

The conditions that led to the imposition of equal access on the Bell Operating Companies (BOCs), and ultimately on the BOC cellular affiliates, are not present in today's market place for CMRS providers.⁷ CMRS providers have no bottleneck facilities, there is no historical relationship between individual CMRS providers and a single interexchange carrier (IXC) and most customers presently have access to a CMRS provider that currently provides equal access.⁸ Unlike the market conditions that existed at the time of divestiture, today's customers have many choices as to how they will spend their telecommunications dollars—CMRS being just one of them. SNET Mobility supports the Commission's conclusion that non-cellular CMRS providers should not be burdened with an equal access obligation, but SNET Mobility believes that the Commission's decision to impose equal access on cellular providers is inappropriate even if the Commission "could not yet determine that cellular services were fully competitive."⁹ SNET Mobility suggests that the Commission has too narrowly focused its inquiry on competition for cellular service and that it should broaden its view to recognize cellular competition in the context of the total telecommunications market. With that perspective, the need for the imposition of equal access disappears.

⁷ As noted by Judge Green in granting AT&T's MFJ waiver to acquire McCaw Cellular, "[i]t must also be recognized that the objective . . . was not the separation of AT&T and the Regional Companies merely for the sake of separation. Instead, the objective was to remove the incentive and opportunity for the local bottleneck monopolies to discriminate in favor of AT&T's interexchange services." *United States of America v. Western Electric Company, Inc. et al*, Civil Action No. 82-0192 (HHG) (D.D.C. Filed August 25, 1994) p. 17.

⁸ For 23 of the top 25 MSAs, at least one of the cellular carriers is a BOC that currently has an equal access obligation. If McCaw provides equal access in its service areas pursuant to the merger with AT&T, all 25 MSAs would have equal access availability for nearly 94 million pops.

⁹ Notice, para. 33.

In its tentative decision to impose equal access on cellular providers, the Commission notes that market power is an important factor in determining whether equal access should be imposed on CMRS providers.¹⁰ The two examples of market power offered by the Commission,¹¹ however, both involve access to a resource that could not be reasonably obtained elsewhere. Such is not the case for a cellular customer who wishes to have access to a particular IXC since the customer can, in most parts of the country, subscribe to a cellular provider who does offer equal access.

SNET Mobility believes that the Commission has properly recognized that the imposition of an equal access obligation on a provider that does not have market power may not be in the public interest and that competition alone may require carriers to offer equal access without regulatory intervention.¹² If customers really want access to a particular IXC or to other networks, as the Commission suggests,¹³ cellular providers will be compelled to respond or face the loss of those customers.

Some carriers contend that the imposition of equal access on all cellular providers is necessary to promote regulatory parity.¹⁴ While regulatory parity is an objective that SNET Mobility supports, the imposition of unnecessary regulatory requirements on non-BOC cellular providers is not a reasonable means to achieve it. Given the arguments that Bell Atlantic and Southwestern have made for the elimination of equal

¹⁰ Notice, para. 32.

¹¹ The Commission cites LEC interconnection, the allocation of NXX codes and the requirement of "good faith" negotiations for the terms and conditions for cellular interconnection as examples of situations where the market power required Commission action. Notice, para. 32.

¹² Notice, para. 34.

¹³ Notice, para. 37.

¹⁴ See Bell Atlantic Comments on MCI Petition at pp. 1, 3-4; Bell Atlantic Comments in Gen. Docket No. 93-252 at p. 30; Southwestern Comments on MCI Petition at p. 15; Southwestern Comments in Gen. Docket No. 93-252 at p. 31.

access, their call to impose equal access on non-BOC cellular providers in the name of regulatory parity is unpersuasive.

B. The Benefits of Imposing Equal Access on Cellular Providers Do Not Outweigh the Costs.

The Commission's cost/benefit analysis for cellular carriers recognizes four benefits of imposing equal access on cellular providers.¹⁵ SNET Mobility believes that the Commission's analysis should be reassessed to consider the following points:

1. The Commission's statement that equal access will benefit consumers "by increasing choice and perhaps lowering the price of long distance services"¹⁶ assumes that competition by IXC's for end users' toll is preferable to competition for the bulk toll of cellular providers. This assumption ignores the fact that end users today receive substantial toll discounts that are made possible by the purchasing power of the cellular provider in buying bulk toll from IXC's.

While the IXC's have argued vigorously that equal access would promote competition in the interexchange market and therefore benefit consumers,¹⁷ their arguments fail to recognize the benefits that accrue to consumers when IXC's must vigorously compete for the provision of bulk toll services to cellular providers. While the IXC's claim that the implementation of equal access will

¹⁵ The Commission notes that equal access: (1) will benefit consumers by increasing choice and perhaps lowering the price of long distances services; (2) may increase access of end users and other telecommunications providers to networks; (3) would permit IXC's to develop service offerings for discounted toll and access to virtual networks; and (4) is consistent with the principle of regulatory parity. Notice, para. 35-39.

¹⁶ Notice, para. 36.

¹⁷ See MCI Petition, p. 5; Allnet Comments on MCI Petition, p. 1; AT&T Comments on MCI Petition, pp. 3-4; ATC Comments on MCI Petition, p. 1; Comptel Comments on MCI Petition, pp. 2-3; OCOM Comments on MCI Petition, pp. 1-3; Sprint Comments on MCI Petition, pp. 1-2; Witel Comments on MCI Petition, pp. 1-2.

allow them to provide combined discounts for wireline and cellular usage, there is little evidence to support that the IXC's provide such discounts today for those customers that are currently served by equal access cellular carriers. The Commission should recognize that the same incentives that motivate IXC's to provide combined toll discounts to end users exist for cellular providers as well. In order to retain high volume cellular customers, cellular carriers must offer competitive toll rates. SNET Mobility and other cellular providers compete aggressively in this area.

The imposition of equal access may be disruptive to those customers who prefer a single cellular provider and a single bill for all cellular usage including toll. In a mandated equal access environment, customers will be required to reconfigure their administrative and accounting systems to accommodate separate toll billing—at best, an inconvenience for all, but for some businesses, an expensive rework of software.

The Commission should be cautious in acting on its conclusion that IXC competition for the end users toll traffic is more beneficial to consumers than competition for the bulk toll of cellular providers. The imposition of equal access could have the very opposite effect that the Commission intends by reducing existing toll discounts and making more calls subject to toll charges.

2. The Commission notes that equal access can increase access of end users and other telecommunications providers to networks which could foster increased network usage that will lead to decreased prices.¹⁸ The conclusion, that offering end users their choice of IXC's will lead to increased network usage,

¹⁸ Notice, para. 37.

has no sound economic support. While there may be some indirect relationship, increased cellular usage is principally a function of lower prices. The critical issue is whether equal access will stimulate lower overall prices to consumers. The Commission is correct in concluding that lower toll prices generally result in increased toll usage. In the context of cellular service, however, toll charges represent only a small component of the user's total cost. The vast majority of cellular calls originate and terminate within the service area of the cellular providers, and therefore, incur no toll charge at all. For those calls that do terminate outside the cellular provider's service area, the cost of the toll is relatively small in comparison to the total charges for the call.

While mandatory equal access could indeed provide end users and other telecommunications providers more convenient access to other networks, customers do have a choice today. Most networks can be accessed via either an 800 or 950 access code with the call and billing handled by the IXC. Should the evolution of additional networks and new technologies create the need for direct wireless access, new technical standards and operating procedures can be expected to develop to insure the seamless operation of all networks. Equal access alone cannot achieve that end.

3. While equal access would allow IXCs to offer discounted long distance service for combined wireline and cellular usage,¹⁹ it would do so at the expense of toll free calling within the cellular provider's service area. For example, Springwich Cellular Limited Partnership (Springwich) provides toll free calling within its entire service area which spans parts of two states and various LATA, MTA and BTA boundaries. Imposing an equal access requirement that converts

¹⁹ Notice, para. 38.

this traffic to toll is not in the public interest. It also raises concerns on how to delineate the geographic boundaries for the purpose of call hand-off.

4. SNET Mobility agrees with the Commission's goal for regulatory parity and that disparate treatment of cellular carriers may be inconsistent with both congressional intent and the Commission's CMRS Second Report.²⁰ SNET Mobility suggests, however, that ultimately the marketplace will determine what features and services CMRS providers must offer to meet customer demand and be competitive. The appropriate course of action is to let the marketplace, rather than regulation, determine the outcome.

5. The implementation of equal access also has significant costs, not only in terms of the initial financial outlays to modify switch software and hardware, but also for customer education and establishing and administering the PIC selection process. As the Commission correctly noted, the imposition of equal access may result in the loss of the economic efficiencies of vertical integration or bundling of services. End users who benefit from the toll discounts offered by cellular providers who purchase bulk toll may be deprived of those discounts under equal access. For example, SNET Mobility, Inc., offers a discounted service, known as Linx USASM which provides a single discount rate of \$.20 per minute for all toll calls from the home service area to anywhere in the U.S.A. and Canada, anytime day or night. Services such as Linx USASM could be jeopardized to the detriment of cellular consumers should mandatory equal access be imposed.

²⁰ Notice, para. 39.

In sum, SNET Mobility urges the Commission to reassess its cost benefit analysis for equal access and conclude that the mandatory imposition on cellular providers is not in the public interest. The costs for the provision of equal access, the potential for reduced toll discounts and reduced toll free service areas, and the myriad of administrative problems associated with equal access boundaries and the PIC selection process, argue against mandating equal access on cellular providers. The industry should be allowed to let the market place and customer dictate if and when equal access should be deployed.

C. The Commission Has Not Factored Developing Competition into Its Analysis.

Evolving competition for cellular service providers can be expected to increase dramatically in the near future. The recent spectrum auctions, the announced consortiums for cellular, PCS and multimedia, the reduced entry barriers to competition due to incentive regulation and low cost technology and the convergence of technology, all support an extremely competitive environment for cellular, in particular, and the entire multimedia industry, in general. In the wireless arena alone, broadband PCS promises to bring technologically sophisticated and financially powerful players into the marketplace. Consortiums of RBOCs, IXC's and others will compete for spectrum in markets throughout the country. These players can be expected to leverage their operating infrastructures for billing, technology, branding and positioning with manufacturers when entering the market. The impact of these players will insure vigorous competition and will rapidly diminish any market power that existing cellular providers are perceived to have today.

The imposition of equal access on cellular providers just at the time significant additional competition is entering the market place would not be in the public interest.

SNET Mobility suggests that the Commission reflect these competitive realities in its analysis and conclude that equal access not be mandated on cellular carriers.

**D. Mandating Equal Access for Paging, Narrowband PCS and Resellers
Other than Cellular Resellers is Not in Public Interest.**

Because paging and narrowband PCS require large geographic markets and have historically been priced without separate charges for toll,²¹ SNET Mobility believes that no equal access obligation should be imposed.

IV. TARIFFS SHOULD NOT BE REQUIRED FOR LEC INTERCONNECTION

The Commission notes that while the early licensing of cellular was marked "by difficult negotiations between LECs and cellular licensees,"²² that, at the present time, "most LECs and cellular licensees are satisfied with the current process of negotiating interconnection arrangements."²³ The concerns expressed by some commentators²⁴ regarding the need for interconnection tariffs appear to be unfounded now that the precedent for interconnection with cellular providers is well established. Should a party to a negotiated interconnection arrangement feel aggrieved, however, recourse under the Commission's complaint procedures is available.

SNET Mobility believes that the good faith negotiation requirement, coupled with the Commission's complaint authority, provides a sufficient basis for

²¹ Notice, para. 47.

²² Notice, para. 102.

²³ Notice, para. 114.

²⁴ Cox Comments in CD Docket No. 93-252 at p. 5; Pagemart Comments in CD Docket No. 93-252 at p. 19; Comcast Comments in CD Docket No. 93-252 at p. 12.

assuring against unreasonable rates, terms and conditions. Safeguards including a "most favored nation" clause or the filing of all carrier-to-carrier interconnection agreements add little to the process, and substantially reduce the ability to meet individual customer needs in a timely and flexible way.

SNET Mobility believes that the Commission's present policy that allows LECs to provide interconnection to CMRS providers pursuant to good faith contractual negotiations is reasonable and appropriate. SNET Mobility suggests that the imposition of minimum requirements for negotiated interconnection arrangements is unnecessary because sufficient market incentives exist for LECs to encourage CMRS providers to utilize the LECs' transport, switching and intelligent data base infrastructure.

V. INTERCONNECTION SHOULD NOT BE REQUIRED FOR CMRS PROVIDERS

The Commission seeks comment on whether it is necessary to require CMRS providers to provide interstate interconnection to other CMRS providers.²⁵ In the absence of controlling bottleneck facilities, there appears to be no basis for concluding that CMRS providers should be mandated to provide interconnection. SNET Mobility believes that interconnectivity will naturally evolve first through LEC connectivity and later by direct connectivity between CMRS providers where the market and customers require it.

The CMRS market consists of a wide array of technologies and services, many of which are cross elastic with each other. Given the rapid advances of the enabling technology and falling costs necessary to provide radio services, the industry is poised

²⁵ Notice, para. 121

for explosive growth. The imposition of interconnection obligations on CMRS providers would only serve as an entry barrier to new competitors.

Critical to the success of new and existing providers is the ability to quickly deploy new technological and service capabilities in a way that allows a reasonable opportunity to recover risk capital. Mandatory interconnection increases the risks faced by new and existing providers by allowing competitors to benefit from the providers' innovations without incurring the risks. Without the ability to rapidly introduce its innovations, new and existing service providers alike will have little incentive to provide the diverse service offerings that technology can deliver.

In balancing its competing goals to foster the development of diverse mobile services with the need to insure non-discriminatory access to mobile services, the Commission should recognize that the mobile services market is in a very early stage of development. The imposition of unnecessary regulations could hamper industry growth. The net effect of mandatory interconnection would likely reduce incentives with a corresponding negative impact on economic growth and job creation.

SNET Mobility believes that mandatory interconnection among CMRS providers is not in the public interest and that the Commission can best foster interconnection by avoiding unnecessarily burdensome regulations, allowing the marketplace to define the need for interconnection and encouraging the rapid development and adoption of industry standards.

VI. CMRS PROVIDERS SHOULD BE SUBJECT TO RESALE OBLIGATIONS TO THE SAME EXTENT AS CELLULAR LICENSEES.

The Commission seeks comment on whether to place resale obligations that apply to cellular licensees on all CMRS providers.²⁶ In assessing the need for imposing resale obligations that apply to cellular licensees on all CMRS providers, the Commission should remain mindful of Congress' mandate that equivalent services should be "regulated in the same manner."²⁷ SNET Mobility encourages the Commission to impose a resale obligation on CMRS providers to the same extent that such resale obligation is imposed on cellular providers today.

VII. CONCLUSION

SNET Mobility recommends that the Commission avoid the mandatory imposition of equal access on cellular carriers because of the negative impacts on both cellular providers and cellular users. The benefits of mandatory deployment of equal access are clearly outweighed by the costs of accelerated deployment, the lack of market demand, the loss of customer choice, the administrative and cost burdens of reconfiguring present cellular service areas, and the diminishing public interest benefits. The Commission's objectives for increased consumer choice are already being attained since consumers in most parts of the nation already have the option of selecting a cellular carrier that provides equal access. The Commission's goal for equal access should be harmonized with the evolution of the marketplace and the satisfaction of customer needs. Cellular providers should be allowed to implement equal access as the market demand and customer needs dictate.

²⁶ Notice, para. 137.

²⁷ H.R. Rep. No. 103-111, 102d Congress., 1st Session. 259 (1993).

LEC interconnection with CMRS providers is in the public interest and SNET Mobility believes that the existing "good faith" requirement is sufficient to assure non-discriminatory interconnection at reasonable prices. The Commission should not burden today's process with an unnecessary tariffing requirement. Interconnection should not be required for CMRS providers.

The Commission should require a resale obligation on CMRS providers to the same extent that such obligations are imposed on cellular licensees.

Respectfully submitted,

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September 12, 1994

CERTIFICATE OF SERVICE

I, Wendy Bluemling, hereby certify that SNET Mobility's Comments have been filed this twelfth day of September, 1994 to all parties listed on the service list below.

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Wendy S. Bluemling

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